

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GRACO CHILDREN'S PRODUCTS INC.,
Petitioner,

v.

KOLCRAFT ENTERPRISES, INC.,
Patent Owner.

Case IPR2016-00816 (Patent D604,970 S)
Case IPR2016-00826 (Patent D616,231 S)¹

Before KEN B. BARRETT, JOSIAH C. COCKS, and
JENNIFER S. BISK, *Administrative Patent Judges*.

BARRETT, *Administrative Patent Judge*.

ORDER
Oral Argument
37 C.F.R. § 42.70

¹ This Paper will be entered in each case. The parties are not authorized to use this caption style.

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Petitioner Graco Children's Products Inc. requested oral argument pursuant to 37 C.F.R. § 42.70(a). IPR2016-00816, Paper 23; IPR2016-00826, Paper 24. Patent Owner Kolcraft Enterprises, Inc. did not file a request for oral argument. Petitioner's request is granted. Due to the related nature of the cases, we exercise our discretion to consolidate the hearings. Additionally, we also exercise our discretion and will allow Patent Owner to present argument notwithstanding the lack of a request from Patent Owner.

The hearing will commence at 9:00 AM ET, on Thursday, July 6, 2017, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The hearing will be open to the public for in person attendance that will be accommodated on a first-come, first-served basis. The Board will provide a court reporter, and the reporter's transcript will constitute the official record of the hearing.

Each party will have a total of forty-five (45) minutes to present arguments for both cases. Petitioner bears the ultimate burden of proof that Patent Owner's patent claims at issue are unpatentable. Thus, Petitioner will proceed first to present its case with respect to the challenged patent claims and grounds with respect to which the Board instituted trial. Thereafter, Patent Owner will respond to Petitioner's arguments. Petitioner may reserve some of its argument time to respond to Patent Owner's presentation.

The parties are reminded that the demonstrative exhibits must be served and filed in accordance with 37 C.F.R. § 42.70(b).

The Board asks that the parties attempt to resolve objections to the demonstratives, and if any objections cannot be resolved, the parties must file those objections with the Board no later than June 30, 2017. Any

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objection to demonstrative exhibits that is not timely presented will be considered waived. The objections should identify with particularity which demonstratives are subject to objection, and include a short (one sentence or less) statement of the reason for each objection. No argument or further explanation is permitted. The Board will consider the objections and schedule a conference if deemed necessary. Otherwise, the Board will reserve ruling on the objections until after the oral argument. The parties may refer to *St. Jude Medical, Cardiology Div., Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65) regarding the appropriate content of demonstrative exhibits.

Requests for audio-visual equipment are to be made five (5) business days in advance of the hearing date. The request is to be sent to Trials@uspto.gov. If the request is not received timely, the equipment may not be available on the day of the hearing.

We expect lead counsel for each party to be present at the hearing, although lead or back-up counsel of record may make the presentation. If either party anticipates that its lead counsel will not attend the oral argument, the parties should initiate a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

The parties are reminded that, at the oral argument, they “may rely upon evidence that has been previously submitted in the proceeding and may only present arguments relied upon in the papers previously submitted.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). “No new evidence or arguments may be presented at the oral argument.” *Id.*

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In addition to issues directed to the patentability of the challenged claims, the parties shall be prepared to address at the hearing Petitioner's Motion to Seal (IPR2016-00816, Paper 22; IPR2016-00826, Paper 23) and specifically, Patent Owner's designation of certain exhibits, in their entirety, as confidential protective order material.

Accordingly, it is

ORDERED that oral argument will commence at 9:00 AM ET, on Thursday, July 6, 2017, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

For PETITIONER:

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